

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART, State Bar No. 083047
Supervising Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 324-5339
6 Facsimile: (916) 327-8643
7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

Case No. 2008-314

13 **GWEN JOANNE LENZ, aka**
GWEN J. PARKER, aka
14 **GWEN J. LENZ, aka**
GWEN JOANNE WELTY, aka
15 **GWEN JEANNE LENZ, aka**
GWEN JEANNE PARKER, aka
16 **GWEN JEANNE STUITJE**
1343 Oak Avenue
17 Clovis, California 93611

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

18 Registered Nurse License No. 410393

19 Respondent.
20

21 **FINDINGS OF FACT**

22 1. On or about May 12, 2008, Complainant Ruth Ann Terry, M.P.H., R.N., in
23 her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
24 Department of Consumer Affairs, filed Accusation No. 2008-314 against Gwen JoAnne Lenz,
25 also known as Gwen J. Parker, Gwen J. Lenz, Gwen Joanne Welty, Gwen Jeanne Lenz, Gwen
26 Jeanne Parker, and Gwen Jeanne Stuitje ("Respondent") before the Board.

27 2. On or about March 31, 1987, the Board issued Registered Nurse License
28 No. 410393 to Respondent. The license expired on March 31, 2001, and has not been renewed.

1 3. On or about May 15, 2008, Jeanie S. Rasmussen, an employee of the
2 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
3 2008-314, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
4 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
5 which was and is 1343 Oak Avenue, Clovis, California 93611.

6 4. On or about June 13, 2008, Jeanie S. Rasmussen, an employee of the
7 Department of Justice, served by Certified and First Class Mail a copy of the Accusation packet
8 to Respondent at 7550 Marlette Avenue, Glendale, Arizona 95303. A copy of the Accusation is
9 attached as Exhibit A, and is incorporated herein by reference.

10 5. Service of the Accusation was effective as a matter of law under the
11 provisions of Government Code section 11505, subdivision (c).

12 6. On or about June 12, 2008, the aforementioned documents mailed on
13 May 15, 2008 were returned by the U.S. Postal Service marked "Returned for Better Address."
14 A copy of the mailing packet is attached as Exhibit B, and is incorporated herein by reference

15 7. Business and Professions Code section 118 states, in pertinent part:

16 (b) The suspension, expiration, or forfeiture by
17 operation of law of a license issued by a board in the department,
18 or its suspension, forfeiture, or cancellation by order of the board
19 or by order of a court of law, or its surrender without the written
20 consent of the board, shall not, during any period in which it may
21 be renewed, restored, reissued, or reinstated, deprive the board of
its authority to institute or continue a disciplinary proceeding
against the licensee upon any ground provided by law or to enter an
order suspending or revoking the license or otherwise taking
disciplinary action against the license on any such ground.

22 8. Government Code section 11506 states, in pertinent part:

23 (c) The respondent shall be entitled to a hearing on the
24 merits if the respondent files a notice of defense, and the notice
25 shall be deemed a specific denial of all parts of the accusation not
26 expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the
agency in its discretion may nevertheless grant a hearing.

27 ///

28 ///

1 9. Respondent failed to file a Notice of Defense within 15 days after service
2 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
3 Accusation No. 2008-314.

4 10. California Government Code section 11520 states, in pertinent part:

5 (a) If the respondent either fails to file a notice of
6 defense or to appear at the hearing, the agency may take action
7 based upon the respondent's express admissions or upon other
evidence and affidavits may be used as evidence without any notice
to respondent.

8 11. Pursuant to its authority under Government Code section 11520, the Board
9 finds Respondent is in default. The Board will take action without further hearing and, based on
10 the evidence on file herein, finds that the allegations in Accusation No. 2008-314 are true.

11 12. The total cost for investigation and enforcement in connection with the
12 Accusation are \$367.75 as of July 31, 2008. A copy of the Cost-of-Suit Summary is attached as
13 Exhibit C, and is incorporated herein by reference

14 **DETERMINATION OF ISSUES**

15 1. Based on the foregoing findings of fact, Respondent has subjected her
16 Registered Nurse License No. 410393 to discipline.

17 2. A copy of the Accusation is attached.

18 3. The agency has jurisdiction to adjudicate this case by default.

19 4. The Board is authorized to revoke Respondent's Registered Nurse License
20 based upon a violation of Code section 2761, subdivision (a)(4), unprofessional conduct, in that
21 Respondent was disciplined by the Arizona State Board of Nursing as alleged in the Accusation.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ORDER

IT IS SO ORDERED that Registered Nurse License No. 410393 heretofore issued to Respondent is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on December 17, 2008.

It is so ORDERED November 7, 2008

LaThane W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Accusation No.2008-314
Exhibit B: Returned U.S. Postal Package
Exhibit C: Cost-of-Suit Summary

30515506.wpd
sg/SA2008301131

Exhibit A

Accusation No. 2008-314

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART, State Bar No. 083047
Supervising Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 327-6819
6 Facsimile: (916) 324-5567

7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-0101

13 GWEN JOANNE LENZ, aka
GWEN J. PARKER, aka
14 GWEN J. LENZ, aka
GWEN JOANNE WELTY, aka
15 GWEN JEANNE LENZ, aka
GWEN JEANNE PARKER, aka
16 GWEN JEANNE STUITJE
1343 Oak Avenue
17 Clovis, California 93611

A C C U S A T I O N

18 Registered Nurse License No. RN 410393

19 Respondent.

20
21 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

22 **PARTIES**

23 1. Complainant brings this Accusation solely in her official capacity as the
24 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
25 Affairs.

26 **License History**

27 2. On or about March 31, 1987, the Board issued Registered Nurse License
28 Number RN 410393 ("license") to Gwen JoAnne Lenz, also known as Gwen J. Parker,

1 Gwen J. Lenz, Gwen Joanne Welty, Gwen Jeanne Lenz, Gwen Jeanne Parker, and Gwen Jeanne
2 Stuitje ("Respondent"). The license expired on March 31, 2001.

3 STATUTORY PROVISIONS

4 3. Section 2750 of the Business and Professions ("Code") provides, in
5 pertinent part, that the Board may discipline any licensee, including a licensee holding a
6 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
7 section 2750) of the Nursing Practice Act.

8 4. Code section 2764, in pertinent part, that the expiration of a license shall
9 not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
10 licensee or to render a decision imposing discipline on the license. Under Code section 2811,
11 subdivision (b), the Board may renew an expired license at any time within eight years after the
12 expiration.

13 5. Code section 118, subdivision (b), provides that the suspension,
14 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
15 proceed with a disciplinary action during the period within which the license may be renewed,
16 restored, reissued or reinstated.

17 6. Code section 2761 states, in pertinent part:

18 The board may take disciplinary action against a certified or licensed nurse or
19 deny an application for a certificate or license for any of the following:

20 (a) Unprofessional conduct, which includes, but is not limited
21 to, the following:

22 (4) Denial of licensure, revocation, suspension, restriction, or
23 any other disciplinary action against a health care professional license or
24 certificate by another state or territory of the United States, by any other
25 government agency, or by another California health care professional
26 licensing board. A certified copy of the decision or judgment shall be
27 conclusive evidence of that action.

25 COST RECOVERY

26 7. Code section 125.3 provides, in pertinent part, that the Board may request
27 the administrative law judge to direct a licentiate found to have committed a violation or

28 ///

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 CAUSE FOR DISCIPLINE

4 (Out-of-State Discipline)

5 8. Respondent is subject to disciplinary action under Code section 2761,
6 subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent's Arizona
7 Registered Nursing License was disciplined by the Arizona State Board of Nursing ("Arizona
8 Board"). In the case entitled, *In the Matter of the Disciplinary Action Against Professional*
9 *Nurse License No. RN 108286 Issued to: Gwen Joanne Welty*, the Arizona Board issued its
10 Notice of Revocation, dated November 30, 2007, revoking Respondent's Registered
11 Nurse License No. RN 108286, due to non-compliance with the terms of the Stayed
12 Revocation/Suspension in the Consent Agreement and Order No.0707020, which became
13 effective on October 29, 2007. A copy of the Board's Order, Consent Agreement and Order are
14 attached as **Exhibit A**, and are incorporated herein.

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number RN 410393
5 issued to Gwen JoAnne Lenz, also known as Gwen J. Parker, Gwen J. Lenz,
6 Gwen Joanne Welty, Gwen Jeanne Lenz, Gwen Jeanne Parker, and Gwen Jeanne Stuitje;

7 2. Ordering Gwen JoAnne Lenz, also known as Gwen J. Parker,
8 Gwen J. Lenz and Gwen Joanne Welty, Gwen Jeanne Lenz, Gwen Jeanne Parker, and
9 Gwen Jeanne Stuitje to pay the Board the reasonable costs of the investigation and enforcement
10 of this case, pursuant to Code section 125.3; and,

11 3. Taking such other and further action as deemed necessary and proper.

12
13 DATED: 5/12/06

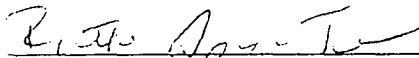
14
15 
16 RUTH ANN TERRY, M.P.H., R.N.
17 Executive Officer
18 Board of Registered Nursing
19 Department of Consumer Affairs
20 State of California
21 Complainant
22
23
24
25

Exhibit A

ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF PROFESSIONAL)
NURSE LICENSE NO. RN108286)
ISSUED TO:)
)
GWEN JOANNE WELTY)
RESPONDENT)

CONSENT AGREEMENT
AND
ORDER NO. 0707020

CONSENT AGREEMENT AND ORDER

A complaint charging Gwen Joanne Welty ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07 (F)(5), the undersigned parties enter into this Consent Agreement and Order ("Order") as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board issued professional nurse license no. RN108286.
2. On April 10, 2007 a call was received from a nurse at Banner Estrella Medical Center reporting that Respondent was admitted to Banner Estrella Medical Center with issues related to chemical dependency. Respondent was encouraged to self-report to the Board.
3. On April 23, 2007 Respondent met with Board staff. Respondent stated that her addiction began 14 years prior after being prescribed narcotics for chronic pain following a car accident. She disclosed that for a period of time, while working for a Hospice, she diverted medications following the death of her patients rather than discarding them. She stated that at one point in her addiction she was using heroin. She began to use cocaine in an attempt to stop

2007 OCT 29 AM 10:57

using heroin and eventually she began to use crystal methamphetamine. She denied the abuse of alcohol.

4. On April 23, 2007 Respondent signed the CANDO Stipulated Agreement, which in part, required her to attend a chemical dependency treatment program, enroll in a drug screening program and submit to required monthly random drug screens, attend two AA/NA meetings per week and a nurse support group weekly, abstain from the use of alcohol and all other mind/mood altering medications and controlled and/or addictive substances, attend aftercare, notify CANDO of any prescription received, refrain from working as a nurse until approval to return to work was obtained from the CANDO consultant and upon return to nursing practice, abide by standard nursing practice restrictions, which included direct supervision, work in a setting where there is always a minimum of one other registered nurse, and no access to or administration of narcotics for twelve (12) months. All documentation forms were reviewed and explained.

5. On May 30, 2007 Respondent failed to submit a random urine drug test in violation of her CANDO stipulated agreement.

6. On June 25, 2007 Board staff received a call from Banner Estrella Medical Center stating that Respondent was again admitted to the hospital and that she had a positive urine drug screen for methamphetamine.

7. On July 9, 2007, after her discharge from the hospital, Respondent met with Board staff. She admitted that she began using methamphetamine again approximately 3 weeks after entering CANDO. Respondent signed the First Addendum to Stipulated Agreement, which in part, required her to obtain a relapse evaluation, submit to two (2) urine drug screens per month for six (6) months, and attend one AA/NA meeting per day for 90 days followed by three (3) AA/NA meetings a week, and no access to or administration of narcotics for twelve (12) months.

8. Respondent was admitted to Valley Hope Association on July 11, 2007 for treatment of chemical dependency. She was discharged on July 18, 2007 for using controlled substances while in treatment.

9. Respondent called Board staff on July 23, 2007 and stated that, while on pass from Valley Hope, she used methamphetamine.

10. Respondent re-entered inpatient treatment at Banner Health Hospital on the Villa on July 20, 2007. She graduated from the Banner Health Hospital substance abuse program on August 2, 2007.

11. Respondent was discharged from CANDO on July 23, 2007 for non-compliance with her Stipulated Agreement and First Addendum to Stipulated Agreement. Non-compliance included the failure to abstain from addictive substances.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute violations of A.R.S. § 32-1663 (D) as defined in § 32-1601(16)(d), (g), (i), and (j), and A.A.C. R4-19-403(B)(1), (16), (17), (18), and (31).

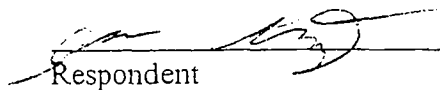
The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1664(N) to revoke, suspend or take disciplinary action against the license of Respondent to practice as a professional nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact and Conclusions of Law. In lieu of a formal hearing on these issues, Respondent agrees to issuance of the following Order and waives all rights to a hearing, rehearing, appeal, or judicial review relating to this Order.

Respondent understands the right to consult legal counsel prior to entering into the Order and such consultation has either been obtained or is waived.

Respondent understands that the term "Order" used throughout this document refers to all pages of the document including Findings of Fact, Conclusions of Law and all suspension/probationary terms and conditions and paragraphs of the Order.

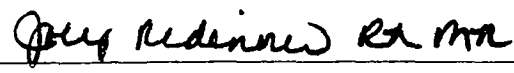
Respondent understands that this Consent Agreement is effective upon its acceptance by the Board and by Respondent as evidenced by the respective signatures thereto. Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by the Respondent, the agreement cannot be withdrawn without the Board's approval or by stipulation between the Respondent and the Board's designee. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.


Respondent

Dated: 10/29/07

ARIZONA STATE BOARD OF NURSING

SEAL


Joey Ridenour, R.N., M.N.
Executive Director

Dated: September 20, 2007

C:\LINK\RN108286-WELTY

ORDER

In view of the above Findings of Fact, Conclusions of Law and consent of Respondent, the Board hereby issues the following Order:

A. Respondent's professional nurse license number RN108286 is hereby **revoked**; however, the **revocation is stayed** for as long as Respondent remains in compliance with this Order. During the stay of the revocation, Respondent's professional nurse license number RN108286 is placed on suspension for twelve (12) months and probation for twelve (12) months with terms and conditions, followed by probation for twenty-four (24) months. Before termination of this Order, Respondent shall work as a professional nurse for a minimum of twelve (12) months (not less than sixteen hours a week).

B. If Respondent is non-compliant with any of the terms of the Order during the **twenty-four (24) month stayed revocation period**, the stay of the revocation shall be lifted and Respondent's license shall be **automatically revoked for a period of five years**. The Board or its designee, in its sole discretion, shall determine noncompliance with the stayed portion of the Order. **Respondent waives any and all rights to a hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.**

C. If Respondent is noncompliant with any of the terms of the Order during the twenty-four (24) month standard probation portion of the Order, Respondent's noncompliance shall be reviewed by the Board for consideration of possible further discipline on Respondent's nursing license.

D. At any time Respondent is required by terms of the Order to provide a copy of the Order to another individual or facility the Respondent must provide all pages of the Consent Agreement and Order.

E. If Respondent is convicted of a felony, Respondent's license shall be automatically revoked for a period of five years. Respondent waives any and all rights to a hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.

F. The suspension is subject to the following terms and conditions:

TERMS OF SUSPENSION (Staved Revocation)

1. Surrender of License

Within seven (7) days of the effective date of the consent agreement Respondent shall surrender the license to the Board and Respondent shall not practice nursing for twelve (12) months.

2. Relapse Evaluation

Within thirty (30) days of the effective date of this Order, Respondent shall be evaluated by a PhD level Board approved relapse prevention therapist. Prior to the evaluation, Respondent shall provide a copy of the Findings of Fact, Conclusions of Law and the Order, and the relapse prevention therapist shall verify receipt of the Order in writing in a report on letterhead to the Board. Respondent shall immediately execute the appropriate release of information forms, to allow the evaluator to communicate with the Board or its designee. The report from the relapse prevention evaluator should include a history of substance abuse, past treatment, present status of recovery and participation in recovery activities, and recommendations for on-going treatment. Respondent will complete all recommendations as recommended by the relapse prevention evaluator. The Board reserves the right to amend the Order based on the recommendations of the relapse prevention therapist.

If recommended, Respondent shall enroll in a relapse prevention program or other recommended therapy within thirty (30) days of being notified by the Board of the recommendations from the evaluator. Respondent shall cause the program facilitator to inform

the Board in writing verifying enrollment in the program. Prior to entry into a relapse prevention program or any type of other recommended therapy, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law, and Order to the program facilitator. Respondent shall immediately execute the appropriate release of information form(s) to allow the facilitator to communicate information with the Board or it's designee. Respondent shall participate in the relapse prevention program or therapy until the Board receives verification from the facilitator in writing that Respondent has successfully completed the program. During participation in the program Respondent shall cause the program facilitator to submit to the Board, in writing on a Board-approved form, evidence of satisfactory attendance, participation, discharge and successful completion of the program. Such reports are due beginning on the first quarterly reporting date after entry into the relapse prevention program and quarterly thereafter, according to schedule, for the remainder of the probationary period or verification of successful completion of the program.

3. Aftercare Program

Within seven (7) days of the effective day of this Order, Respondent shall enroll in and successfully complete a state licensed chemical rehabilitation aftercare program. Upon entry, Respondent shall sign release of information forms allowing the program to inform the Board of Respondent's entry, progress in and discharge or termination from the program. Respondent shall cause the program to provide to the Board, in writing and on the Board-approved form, evidence of satisfactory progress in the program, as well as discharge or termination from the program. Such reports are due beginning on the first quarterly reporting date after entry into the program and quarterly thereafter according to schedule, until completion of the

////

////

4. Completion of Suspension

After Respondent has successfully completed all terms of the 12-month Stayed Revocation Suspension as determined by the Board's designee. Respondent's license shall be placed on a 12-month Stayed Revocation Probation with terms and conditions.

TERMS OF SUSPENSION AND PROBATION **(Stayed Revocation and Standard)**

1. Renewal of License

If Respondent's professional nursing license is expired at the time of the effective date of the Consent Agreement and Order, Respondent must renew the license within seven (7) days of the effective date. In the event the professional license is scheduled to expire during the duration of this Order, Respondent shall apply for renewal of the professional license and pay the applicable fee before the expiration date. Failure to renew within seven days of the effective date of this Order, if it is expired, or failure to renew a license by the last date in which the license is to expire, shall be considered as noncompliance.

2. Relapse Prevention Therapy

Within seven (7) days after completion of Aftercare, Respondent shall enter a Board approved Relapse Prevention Therapy Program. Respondent shall immediately execute the appropriate release of information form(s) to allow the facilitator to communicate information to the Board or its designee, and Respondent shall immediately provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the facilitator. Within seven (7) days of entering treatment, Respondent shall cause the facilitator to submit to the Board written verification of Respondent's enrollment in the Program, and verification of receipt of Respondent's entire Consent Agreement. Thereafter, Respondent shall cause the facilitator to provide quarterly reports to the Board according to the quarterly reporting schedule

assigned to Respondent. Respondent shall continue undergoing treatment until the facilitator provides written notification to the Board, indicating that treatment is no longer needed. The Board reserves the right to amend the Order based on recommendation(s) of treating professional(s).

3. Nurse Recovery Group

Within seven (7) days of the effective date of this Order, Respondent shall enroll in a Board-acceptable Nurse Recovery Group if a group is available within forty miles. Respondent shall sign release of information forms allowing the group facilitator to inform the Board, in writing and on letterhead, of Respondent's entry and progress in the group. Respondent shall attend a Nurse Recovery Group once per week and have no "Unexcused" absences or "No call/No show" occurrences.

4. Participation in AA/NA

(a) Within seven (7) days of the effective date of this Order, and throughout the term of this Order, Respondent shall participate at least weekly, or as recommended by the Rehabilitation Program, in Alcoholics Anonymous, Narcotics Anonymous, or an equivalent program, and shall submit to the Board, in writing on Board-approved forms, quarterly reports which are initialed by his/her sponsor. The first report is due by the end of the first month after the effective date of the Order, and quarterly thereafter according to the assigned reporting dates.

(b) Respondent shall obtain a temporary sponsor, if participating in a twelve-step program, within thirty days of the effective date of this Order and a permanent sponsor within sixty days. Respondent shall maintain a sponsor relationship throughout the terms of this Order.

5. Drug Testing

Within seven (7) days of the effective date of this Order, Respondent shall enroll in a program that meets Board criteria for random drug testing. Random drug testing shall be done at

a minimum of twice per month for the first six (6) months and once per month thereafter. Drug testing may be required more frequently as requested by the Board or its designee. Respondent shall notify the drug testing laboratory and the Board, in writing, of unavailability to test before the anticipated absence. If Respondent is unable to submit a specimen on a date requested due to illness, Respondent must provide in writing within seven (7) days of the missed specimen, documentation from a medical provider who has personally seen Respondent on the day of the requested drug test confirming that Respondent was not physically able to report to the laboratory for drug testing. In addition, any occurrence of the following conditions constitutes noncompliance: a positive drug test showing evidence of any drug other than an authorized drug; submission of a specimen where the integrity has been compromised, as indicated by the presence of adulterants; failure to submit to a drug test on a day when a drug test has been requested by either the Board, its designee, or the laboratory; and submission of a urine sample that is below the acceptable volume or temperature to be tested. A positive drug test showing evidence of any drug other than an authorized drug shall result in immediate notification of Respondent's employer by the Board.

6. Abstain from Alcohol Use

Respondent shall completely abstain from the use of alcohol.

7. Abstain from Unauthorized Drug Use/Proof of Prescription

Respondent shall completely abstain from the use or possession of controlled substances, and dangerous drugs as defined by law, or any drugs requiring a prescription.

Orders prohibiting Respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to Respondent for an illness or condition by a medical provider. During the duration of this Order, Respondent shall select one medical provider to coordinate her health care needs and to be aware of all

prescriptions utilized. Within seven (7) days of the effective date of this Order, Respondent shall cause all medical providers who have prescribed medications which are currently being used by the Respondent daily or on an as needed basis to provide in writing, on letterhead, verification of knowledge of Respondent's history of substance use, awareness of Respondent's Consent Agreement and Order with the Board, and documentation of current medications prescribed for Respondent. Respondent shall execute all release of information form(s) as required by the Board or its designee so that Respondent's medical providers shall be able to communicate information with the Board. Prior to receiving treatment from any other medical provider(s), Respondent shall notify the medical provider(s) of Respondent's history of substance use and of the existence of the Order. DURING THE COURSE OF THE ORDER RESPONDENT SHALL CAUSE ANY AND ALL PROVIDERS TO NOTIFY THE BOARD OF THEIR AWARENESS OF RESPONDENT'S HISTORY OF SUBSTANCE USE, BOARD ORDER, AND NOTIFICATION OF ANY MEDICATIONS ORDERED BY THE PROVIDER. THE NOTIFICATION SHALL BE MADE IN WRITING WITHIN ONE WEEK OF THE PROVIDER'S ISSUANCE OF THE PRESCRIPTION.

If Respondent has a lawful prescription for a controlled substance, Respondent shall cause her prescribing provider to provide monthly reports to the Board regarding the continued need for the prescribed narcotic or mood-altering medications within seven (7) days of the 30th day of each month. The Board or its designee may, at any time, request the provider to document the continued need for prescribed medications. Such report from the provider shall be received by the Board within fourteen (14) days of the request. Respondent shall keep a written record of medications taken, including over-the-counter drugs, and produce such record upon request by the Board or its designee.

8. Release of Information Forms

Respondent shall sign all release of information forms as required by the Board or its designee and return them to the Board within ten (10) days of the Board's written request. If Respondent fails to execute the releases, her license shall automatically be revoked.

9. Interview with the Board or its Designee

Respondent shall appear in person or if residing out of state, telephonically for interviews with the Board or its designee upon request and with at least two (2) days notice.

10. Change of Employment/Personal Address/Telephone Number

Respondent shall notify the Board, in writing, within seven (7) days of any change in nursing employment, personal address or telephone number.

11. Obey All Laws

Respondent shall obey all federal, state and local laws, and all laws/rules governing the practice of nursing in this state. Offenses or convictions such as driving under the influence may subject Respondent to further disciplinary action. Minor civil traffic violations are excluded.

12. Costs

Respondent shall bear all costs of complying with this Order.

13. Voluntary Surrender of License

Respondent may, at any time this Order is in effect, voluntarily request surrender of her license.

14. Violation of Terms of Consent Agreement and Order

During the stayed revocation portion of the Order (*first twenty-four months*), if Respondent is non-compliant with the terms of the Order the stay of revocation shall be lifted and Respondent's license shall be automatically revoked.

If during the standard probation (*last twenty-four months*) portion of the Order, Respondent is noncompliant with the terms of the Order in any respect, Board staff may notify the Respondent's employer of the non-compliance. Additionally, the Board may revoke probation and take further disciplinary action for noncompliance with this agreement after affording Respondent notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

TERMS OF PROBATION (Stayed Revocation and Standard)

1. Stamping of License

Following completion of the twelve (12) month Stayed Revocation Suspension, Respondent's license shall be stamped "Probation" and returned to Respondent. While this Order is in effect, if the Board issues any certificates or licenses authorized by statute, except a nursing assistant certificate, such certificate or license shall also be stamped "**PROBATION.**"

Respondent is not eligible for a multistate "Compact" license.

2. Relapse Prevention Evaluation

Eighteen (18) months prior to the termination of the Order or as requested by the Board or its designee, Respondent shall be evaluated by a relapse prevention therapist, who is at minimum, Master's prepared. Respondent shall comply with any treatment recommendations as recommended by the relapse prevention evaluator.

If recommended by the evaluator, Respondent shall enroll in a relapse prevention program or other recommended therapy within thirty (30) days of being notified by the Board or its designee of the recommendations from the evaluator. Respondent shall cause the program facilitator to inform the Board, in writing and on letterhead, verification of enrollment in the

program. Prior to entry into a relapse prevention program or any type of other recommended therapy, Respondent shall provide a copy of this Consent Agreement and Order to the program facilitator. Respondent shall sign release of information form(s) to allow the facilitator to communicate information with the Board or its designee. Respondent shall participate in the relapse prevention program or therapy until the Board receives written verification from the facilitator that Respondent has successfully completed the program. During participation in the program, Respondent shall cause the program facilitator to provide to the Board, in writing on Board-approved forms, evidence of satisfactory attendance, participation, discharge, and successful completion of the program. Reports are due on the first quarterly reporting date after entry into the relapse prevention program and quarterly thereafter, according to schedule. Violation of this paragraph is noncompliance with the Order.

3. Notification of Practice Settings

Any setting in which Respondent accepts employment, which requires RN licensure, shall be provided with a copy of the entire Order on or before the date of hire. Within seventy-two (72) hours of Respondent's date of hire, Respondent shall cause her immediate supervisor to inform the Board, in writing and on employer letterhead, acknowledgment of the supervisor's receipt of a copy of this Consent Agreement and Order and the employer's ability to comply with the conditions of probation. In the event Respondent is attending a nursing program, Respondent shall provide a copy of the entire Consent Agreement and Order to the Program Director. Respondent shall cause the Program Director to inform the Board, in writing and on school letterhead, acknowledgment of the program's receipt of a copy of the Consent Agreement and Order and the program's ability to comply with the conditions of probation during clinical experiences.

4. Quarterly Reports

Within seven (7) days of each assigned quarterly report due date, if Respondent is working in any position which requires RN licensure Respondent shall cause every employer Respondent has worked for during the quarter to provide to the Board, in writing, employer evaluations on the Board-approved form. The first report is due on the first assigned quarterly report due date after the date of employment. Receipt of notice of an unsatisfactory employer evaluation, verbal or written warning, counseling or disciplinary action, any of which pertain to patient care, practice issues, or termination from a place of employment shall be considered as noncompliance. In the event Respondent is not working in a position that requires nursing licensure, or attending school during any quarter or portion thereof, Respondent shall complete and provide to the Board, in writing, a Board approved self-report form.

5. Practice Under On-Site Supervision

Respondent shall practice as a professional nurse, only under the on-site supervision of a professional nurse in good standing with the Board. On-site supervision is defined as having a professional nurse present in the building while Respondent is on duty. The supervising nurse shall have read this Consent Agreement and Order and shall provide input on Respondent's employer evaluations to the Board. The supervising nurse shall be primarily one person, who may periodically delegate to other qualified professional nurses who shall also have read this Consent Agreement and Order. In the event that the assigned supervising nurse is no longer responsible for the supervision required by this paragraph, Respondent shall cause her new supervising nurse to inform the Board, in writing and on employer letterhead, acknowledging the new supervisor's receipt of a copy of this Consent Agreement and Order and the new supervising nurse's ability to comply with the conditions of probation within ten days of assignment of a new supervising nurse.

6. Access to Drugs

Respondent shall not administer or have access to controlled substances and/or any other potentially addictive medications, including but not limited to, Ultram, Nubain and Stadol, at least during the first twelve (12) months after returning to nursing practice and until receiving written approval from the Board or its designee. Upon evidence of full compliance with the probationary terms, the Board or its designee shall evaluate and provide written notification of Respondent's ability to administer controlled/prohibited medications.

7. Acceptable Hours of Work

Respondent shall work only the day or evening shift. Evening shift is defined as a shift that ends prior to midnight. Within a 14-day period Respondent shall not work more than 84 scheduled hours.

Respondent may work three 12-hour shifts in one seven day period and four 12-hour shifts in the other seven-day period, but Respondent may not work more than 3 consecutive 12-hour shifts during this probationary period. Respondent shall not work 2 consecutive 8 hour shifts within a 24 hour period or be scheduled to work 16 hours within a 24 hour period.

8. Registry Work Prohibited

Respondent may not work for a nurse's registry, home health, traveling nurse agency, any other temporary employing agencies, float pool, or position that requires on-call status.

9. Out of State Practice/Residence

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, the Board must first approve out-of-state practice or residence.

10. Violation of Probation

If during the stayed revocation portion of the Order Respondent is non-compliant with the terms of the Order in any way, the stay of revocation shall be lifted and Respondent's license

shall be automatically revoked. If during the standard probation portion of the Order Respondent is noncompliant with the terms of the Order in any respect, the Board staff may notify the Respondent's employer of the non-compliance. Additionally, the Board may revoke probation and take further disciplinary action for noncompliance with this Consent Agreement and Order after affording Respondent notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

11. Completion of Probation

When Respondent has nine (9) months left in the probationary period, Respondent's compliance will be reviewed by the Board's designee. If Respondent has demonstrated full compliance with all terms of the Order, Respondent will be eligible to participate in a "stepdown" component of the Order where reports from AA and Nurse Recovery Group will no longer be required, and Respondent shall submit to "on-call" urine drug screens as requested by

////

////